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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MASON WOLLERSHEIM,

Plaintiff,

vs.

SA FRANCIS T. NGYUEN, et al.,

Defendants.

Case No. 2:24-cv-00432-JAD-EJY

**Motion to Extend Time to Respond to
Court's Order #28**

(First Request)

The United States respectfully submits this motion to extend the time to respond to the Court's August 27, 2024 order (ECF No. 28), until September 13, 2024 to allow sufficient time for the assigned AUSA to return to the office from pre-planned leave and to obtain the consent of the 12 Army Defendants to representation by the assigned AUSA.

Background

Plaintiff Wollersheim sued 14 defendants. He served the United States Attorney's Office with the corresponding 14 sets of summonses and complaint, via certified mail with a postage date of June 17, 2024. On August 27, 2024, the Court granted the United States' motion seeking additional time to respond to Plaintiff's Complaint on behalf of Army Defendants Nguyen, Reinhart, Lyles, Chun, Jindrich, and Hanna. ECF No. 28. In addition, the Court ordered the United States to clarify no later than September 6, 2024 whether the Court should require Plaintiff to continue to attempt personal service on the

1 unserved defendants or whether “upon confirmation of representation by the Department
 2 of Justice, service may be accepted on behalf of the individual defendants.” ECF No. 28 at
 3 2, lines 12-14. On September 3, 2024, the United States Attorney’s Office was given
 4 authority to represent 12 of the 14¹ defendants under 28 C.F.R. § 50.15.

5 Following the authorization to represent the individual defendants, to establish the
 6 attorney-client relationship, the assigned AUSA must contact each of the 12 defendants,
 7 explain the nature of the representation, receive the individual’s consent to the
 8 representation and finalize some administrative matters.²

9 **Argument**

10 Under Fed. R. Civ. P. 6(b)(1) and Local Rule IA 6-1, the Court’s rules allow a party
 11 to request additional time to perform an act. The assigned AUSA Patrick Rose is presently
 12 out of the office on pre-planned leave through Friday, September 6, 2024. Following his
 13 return, he will undertake the efforts described above and in 50 C.F.R. § 50.15 in an effort to
 14 finalize each defendant’s consent to legal representation in this matter. If they consent, a
 15 topic of discussion will be service of process. Given the timing, however, particularly with
 16 Mr. Rose’s absence from the district, the United States will not be in a position to respond
 17 to the court’s order by the September 6, 2024 deadline.

18 As a result, the undersigned seeks additional time to respond to the Court’s August
 19 27, 2024 order to confirm the consent of the Army Defendants to the undersigned’s
 20 representation and respond fulsomely to the Court’s order.
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24 ¹ Two of the 14 defendants, Clark and Ruiz, do not appear to be members of the Army:.

25 ² Representation under 28 C.F.R. § 50.15 contemplates a “full and traditional attorney-
 26 client relationship” but such relationship does not arise until it is authorized. 28 C.F.R. §
 27 50.15(a)(3). 28 C.F.R. § 50.15(a)(8) identifies limitations on the scope of representation,
 28 including that the DOJ attorney will not assert any legal position or defense on behalf of an
 individual that is deemed not to be in the interest of the United States. That and other
 limitations might impact a defendant’s representation decision.

1 The United States also notes that Plaintiff, in lieu of personal service on the
2 unserved Army defendants, may wish to avail himself of the procedures for initiating the
3 waiver of service of process under Federal Rule of Civil Procedure 4(d).

4 **Conclusion**

5 The Department of Justice recently granted the 12 Army Defendants' request for
6 representation under 28 C.F.R. § 50.15. The United States respectfully moves for an
7 additional one week, through September 13, 2024, to respond to the Court's August 27,
8 2024 order to allow the assigned AUSA additional time to return from pre-planned leave,
9 obtain the Army Defendants' consent to the authorized legal representation and file a
10 response to the Court's August 27, 2024 order.

11 Respectfully submitted this 5th day of September 2024.

12 JASON M. FRIERSON
13 United States Attorney

14 /s/ Summer A. Johnson for
15 PATRICK A. ROSE
16 Assistant United States Attorney

17 IT IS SO ORDERED.

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19 Clayton J. Zouchak
20 U.S. MAGISTRATE JUDGE

21 Date: September 5, 2024
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